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world peace, it would be wise to attempt the creation of new international agencies. Would it not be prudent to follow Lorimer's injunction against "impossible schemes" and to avoid his example by adding no more "*debris*" in the pathway of international jurisprudence?

We cannot presume to foretell or anticipate the destinies of nations. A world state may yet evolve. We are not concerned however with remote events of a problematical, speculative nature. Our immediate duty would not appear to impose the creation of a perfect scheme of world organization. Does it not rather consist in the utilization and perfection of the agencies already at hand?

PRINCETON UNIVERSITY,  
April, 1916.

## V.

### WORLD ORGANIZATION.

By DAVID JAYNE HILL, A.M., LL.D.

That there is a legal bond of relationship between the sovereign states composing the society of nations, has been amply shown by the distinguished speakers who have already presented their views. That this is in some sense a fact, no competent authority would deny; but in order to render it a secure basis for an effectual organization of the civilized nations of the world, it is necessary that there should be among them practical unanimity in accepting and maintaining a common understanding of the nature of this legal bond, and of the consequences that should follow from it.

### THE CONCEPTION OF CHRISTENDOM.

Back of such a common understanding there must be, as a condition of its existence, some uniformity of conviction regarding the nature of the state, the source and extent of its authority, and the normal purposes and relations of separate political communities.

The first common ground of this kind was furnished by Chris-

tianity. Before its existence there were, indeed, certain generally accepted juristic principles, derived from the experience of right and wrong in the conduct of neighboring peoples; and an important contribution to the clearer apprehension of them was made by the Stoic philosophy, which was itself a fertile source of elementary legal conceptions. But it was the sense of a wider community, inspired by the possession of a common religious faith, involving ideas of duty, fidelity and honor, that eventually made possible a nearer approach than had ever before been made to the idea of an actual society of nations—a “Christendom,” in which all races of men were, or might become, participants.

#### THE SOCIETY OF STATES AS DEFINED BY SUAREZ.

Looking, as Christian princes did, to a common divine source of their authority, this feeling of community had in a certain degree long existed before its natural grounds were distinctly formulated. This was first done in the sixteenth century, in a passage of remarkable clearness and depth of insight, by the Portuguese theologian, Franciscus Suarez, who wrote:

“The human race, however divided into various peoples and kingdoms, has always not only its unity as a species but also a certain moral and quasi-political unity, pointed out by the natural precepts of mutual love and pity, which extends to all, even to foreigners of any nation. Wherefore, although every perfect state, whether a republic or a kingdom, is in itself a perfect community composed of its own members, still each such state, viewed in relation to the human race, is in some measure a member of that universal unity. For those communities are never singly so self-sufficing but that they stand in need of some mutual aid, society, and communion, sometimes for the improvement of their condition and their greater convenience, but sometimes also for their moral necessity and need, as appears by experience. For that reason, they are in need of some law by which they may be directed and rightly ordered in that kind of communion and society. And, although this is to a great extent supplied by natural reason, yet it is not so supplied sufficiently and immediately for all purposes; and, therefore, it has been possible for particular laws to be introduced by the practice of those nations. For just as custom introduced law in a state or province, so it was possible for laws to be introduced in the whole human race by the habitual conduct of nations.”

## THE DISSOLUTION OF CHRISTENDOM.

It was, as Professor Moore has pointed out, among the Christian states that international law had its beginning; and for a long period they alone were regarded as constituting the society of states and entitled to the consideration which that law demanded. But long before the admission of non-Christian nations into that community, Christendom had completely lost its original unity; fraternity between the nations had almost vanished; schism in religion and the rivalry of dynasties had destroyed all but the ceremonial relations between states; and, although philosophic jurists, like Pufendorf and Wolf, propounded theories that rendered plausible the establishment of a world-state, the political conditions of Europe rendered them illusory.

## PROJECTS FOR A WORLD-STATE.

It is especially interesting at this time to recall the fact, that most of the great projects for a thoroughgoing legal organization of the world have had their origin in periods of time when human reason and conscience have been roused to protest by the infamies that accompany great wars. Thus it was that, in the midst of the Thirty Years' War, Emeric Crucé proposed that Venice be chosen as the permanent seat of a corps of ambassadors who by their votes should settle all international differences. It was during the "Robber Wars" of Louis XIV. that William Penn, whom Montesquieu has called "the modern Lycurgus," propounded his plans for universal peace. It was at the conclusion of the struggle for the Spanish Succession that Fénelon presented to the Congress of Utrecht his famous dissertation, in which he said:

"Neighboring states are not only under obligation to treat one another according to the rules of justice and good faith; they ought in addition, for their own safety, as well as for the common interest, to form a kind of general society and republic."

It was upon the same occasion, that the Abbé de Saint-Pierre elaborated his extension of Sully's alleged "Great Design," in which—anticipating the present program of the League to Enforce Peace—he proposed not only the submission of differences to judi-

cial decision, but the total abolition of the separate use of force, and the agreement that, in case of a refusal to observe treaties or to obey the rules and judgments imposed, the other members of the alliance should compel a refractory sovereign to comply by arming unitedly against him, and charging to his account the expense of this forcible constraint. And it was during Napoleon Bonaparte's conquest of Italy, that Immanuel Kant wrote his famous essay on "Eternal Peace."

#### THE EXTENSION OF CONSTITUTIONALISM.

It is quite natural, therefore, that we should at this particular time experience a new interest in the problem of world organization; for it is evident, not only that all the devices hitherto proposed for securing international justice through legal procedure have thus far failed of accomplishing their purpose, but that the rescue of civilization from complete destruction depends upon some new relation to be established between force and law.

It is possible for almost any intelligent man familiar with modern constitutions to construct upon paper a plan of international organization that most other intelligent men would probably agree was worthy of universal adoption, and which some intelligent men would even affirm ought to be forcibly imposed upon all mankind by a union of constitutional states.

Some of us have hoped that the development of constitutional government throughout the world, if it had not already reached that point, would soon advance so far as to render it possible for states founded upon constitutional principles voluntarily to extend the application of them, so that they might become operative between states as well as within their separate jurisdictions; for this is all that would be required to establish a constitution of civilization that would not efface or suppress the idea of nationality, but merely recognize all responsible states, great and small, as juridical persons, bound by their own structural principles to admit their limitations, their responsibilities, and their amenability, as local organs of justice, to that greater organism of which they would form a part.

## THE EXCLUSION OF IMPERIALISM.

By such a procedure there might be established that relation between law and its enforcement that is necessary for the solution of this problem; and it is not to be doubted that it is in this direction that we may seek for a solution.

It must not be overlooked, however, that, if we are to promote world organization through constitutionalism, we cannot begin auspiciously by abandoning its principles; and, by means of a forcible imposition of what we happen to consider to be law and justice, really substitute for the anarchy we deplore the imperialism we should thereby embrace.

An empire founded upon a declaration of the rights of man would, indeed, be preferable to a condition of anarchy and violence; but we have no assurance that such an empire can long exist. What we know historically of imperial governments does not encourage such an expectation. They either develop into despotisms, as the Roman Empire did, or radically change their character and become democracies. We have an example of the latter process in the transformation now taking place in the British Empire. For the first time the British colonies are persistently referred to as "autonomous"; and this word has been used in this sense by a conservative member of the government, Mr. Bonar Law, speaking for the cabinet upon an official occasion; when he made the interesting statement, that what had been impossible before the war will be easy after it, and that the relation of the colonies to the mother-country would never again be what it was before. In fact, it is a confederation of autonomous states, rather than an empire in the proper sense, that is coming into existence in what has been known as the British Empire.

It is in this modification of the conception of sovereignty—which must yet endure even greater modifications—that we find a ground of hope for a permanent and pacific organization of mankind. Unless we start out with the postulate, that the State is founded upon the inherent rights of its citizens; and, therefore, reaches its limits of authority where their collective rights of safety and possession end, we shall have no constructive principle upon which to base a

better organization of the world. The right of superior aggressive force once admitted, no matter how noble and elevated its aims may be, imperialism has triumphed; and, if imperialism is to triumph, it will create its own rules of action in defiance of international law.

#### THE ANTAGONISM OF THE CONSTITUTIONAL AND THE IMPERIAL IDEALS.

As the basis of any practicable scheme of world organization, it is necessary to lay down the postulate, that every free community of men may form a government for the protection of their inherent rights. But this fundamental political right, which we call by the ambiguous name "sovereignty," is by no means an unlimited right. It is necessarily limited by the similar right of other coëxistent communities; and, from the constitutional point of view, it is further limited by the fact that there are inherent personal rights, which no government may justly take away.

I am aware that a contrary view is held, which maintains the unlimited right of majorities to determine what the law may be; but, upon this principle, it is evident that the greater Powers, simply by the preponderant weight of numbers, might wholly extinguish the smaller nations. That is the theory of imperialism, which claims an unlimited right of national expansion, restrained only by the measure of power to carry it into execution. Its motto is "Might makes right."

Constitutionalism, on the contrary, proceeds upon the principle that local liberty should be secured by general law. It is opposed to forcible aggression, and resorts to force only in its own defense. It accords to a neighbor the same rights that are claimed by itself. It proposes a gradual substitution of law for force in the regulation of the world.

#### THE OUTLAWRY OF VIOLENCE.

Being itself a product of a long process of social evolution, and dependent for its very existence upon those growths of mind and character that qualify men for self-government, constitutionalism cannot expect an immediate or an easy triumph. It must patiently abide its time, until the nations shall have acquired the wisdom to

organize justice by voluntarily accepting the limitations which it imposes.

There is, however, one means of promoting this result without a resort to violence. When nations manifest fitness for admission into the Society of Sovereign States, they are admitted to its privileges. When they violate its laws, and by their conduct show their unfitness for participation in it, why should they not be denied the privilege of intercourse with civilized nations?

There is, it is true, no central authority possessing the power to render a sovereign state an outlaw; but any government, in standing for the maintenance of international law, or for the vindication of its own rights under it, may, if it is willing to pay the cost, sever its diplomatic and its trade relations with a persistent law-breaker.

But the cost would often be considerable; and, judged from the point of view of expediency, it requires either a serious offense or a certain amount of courage to take such a step. But, without courage, so long as savagery, brigandage, and imperial ambitions disturb the peace and order of the world, there can be no international progress. Whatever rights, or prestige, or influence any nation possesses to-day, it enjoys because someone has defended them.

#### THE DUTY OF NATIONAL DEFENSE.

And so, after a general survey of international relations, we are forced to the conclusion, that, between submission to injustice and the ability to defend the rights of a nation, there is no alternative. But there is still another aspect of the subject. The maintenance of the reign of law in the world against aggression and violence must be regarded as a duty which every civilized nation owes to every other, as well as to itself. International law is our law. We have helped to make it; we hold ourselves under obligation to observe it; and we cannot, without moral delinquency, refuse to defend it.

So long as armed force is necessary to maintain human rights, it is incumbent upon us to furnish our contingent for their defense. It may be that a right course will be resented, and that the severance of diplomatic and commercial relations with a powerful nation might provoke an attack in response. Very well; then it becomes our duty, not only in defense of the reign of law, but in our own defense, to be prepared to resist it.



For this purpose it is only a confession of feebleness to depend upon alliances. There is no strength in a rope of sand, and no positive result can come of the mere addition of nullities. If conflict becomes necessary, someone must bear the brunt of it. The future peace and order of the world depend upon the attitude of the great nations. To be a great nation, and at the same time to refuse to assume a great nation's responsibilities, is a recreant evasion of duty.

Applying this doctrine to the United States of America, our influence for peace and justice will be in proportion to our strength. If we are weak, our only safety lies in silence; but in a great moment silence is dishonorable. If we would speak with effect, we must be strong. We do not require a great standing army, but we should be able, in case of need, promptly to place in the field an army proportional to the nation's territorial extent; for it is that which we may be called upon to defend. But above all, we should be strong upon the sea; for it is there that the destinies of the world are to be determined.

WASHINGTON,  
April, 1916.